

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lily Kim	Team: Squad #6	CCRB Case #: 202101076	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/09/2020 5:30 AM, Thursday, 02/04/2021 5:30 AM	Location of Incident: § 87(2)(b)	Precinct: 81	18 Mo. SOL 4/9/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 02/17/2021 2:41 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 02/17/2021 2:41 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home § 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Casey Thomas	09646	961367	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Patrick Sadowski	03558	961223	094 DET
2. SGT Peter Litra	01197	951925	WARRSEC
3. DT3 Sukhvinder Tak	03953	957202	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Casey Thomas	Abuse: On October 9, 2020, Police Officer Casey Thomas entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 Casey Thomas	Abuse: On February 4, 2021, Police Officer Casey Thomas entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.DT3 Casey Thomas	Abuse: On February 4, 2021, Police Officer Casey Thomas searched location § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

On February 17, 2021, § 87(2)(b) filed this complaint via the CCRB Call Processing System.

On October 9, 2020, at approximately 5:30 a.m., § 87(2)(b) was asleep at § 87(2)(b) in Brooklyn, when PO Casey Thomas, Sgt. Peter Litra, and PO Sukhvander Tak of the Brooklyn North Warrant Squad knocked on her door. When § 87(2)(b) answered the door, she had conversation with PO Thomas, who allegedly stuck her foot in the door before § 87(2)(b) consented to her entry (**Allegation A—Abuse of Authority**, § 87(2)(g)). Upon entering, PO Thomas and Sgt. Litra observed § 87(2)(b) friend, § 87(2)(b) who had an active perpetrator I-card at the time. They arrested § 87(2)(b) for robbery in the second degree and transported him to the stationhouse.

On February 4, 2021, at approximately 5:30 a.m., § 87(2)(b) mother, § 87(2)(b) was in the apartment located at § 87(2)(b) in Brooklyn, when PO Thomas knocked on the door. § 87(2)(b) told the officers to come into the apartment (**Allegation B—Abuse of Authority**, § 87(2)(g)) and gave PO Thomas permission to look around the apartment to confirm that § 87(2)(b) was not there (**Allegation C—Abuse of Authority**, § 87(2)(g)). The officers left after PO Thomas walked around the apartment and confirmed that § 87(2)(b) was not present.

The officers were not equipped with BWC at the time of incident

Findings and Recommendations

Allegation A—Abuse of Authority: On October 9, 2020, Police Officer Casey Thomas entered § 87(2)(b) in Brooklyn.

§ 87(2)(b) testified (**BR 01**) that on October 9, 2020, at approximately 5:30 a.m., officers knocked on the door as she was asleep at § 87(2)(b) in Brooklyn. § 87(2)(b) looked through the peephole. PO Thomas stated that they were looking for someone and asked § 87(2)(b) to open the door. PO Thomas stated that she had a summons for her father, § 87(2)(b) § 87(2)(b) responded that § 87(2)(b) passed away in 2012. PO Thomas stated that she did not know that § 87(2)(b) had passed away. PO Thomas continued to ask if there were males in the apartment and stated that “this could be bad for [her],” if she did not open the door. PO Thomas stated that they wanted to check inside to make sure there were no males. § 87(2)(b) cracked open the door and spoke with § 87(2)(b) over the phone before allowing the officers to enter. PO Thomas placed one foot in the doorway to prevent § 87(2)(b) from closing the door. After speaking with § 87(2)(b) § 87(2)(b) let the officers into the apartment. PO Thomas and Sgt. Litra arrested § 87(2)(b) who was in the living room, and removed him from the apartment. § 87(2)(b) asked Sgt. Litra if the officers used a “loophole” to get § 87(2)(b). Sgt. Litra stated that § 87(2)(b) had a warrant, which PO Thomas showed her.

A statement was not obtained from § 87(2)(b) as he was not involved in conversation between § 87(2)(b) and PO Thomas regarding the entry.

PO Thomas testified (**BR 02**) that she went to § 87(2)(b) in Brooklyn, with a perpetrator I-card for § 87(2)(b) because one or two days before, § 87(2)(b) victim, § 87(2)(b) provided the address as the location where § 87(2)(b) was living. PO Thomas conducted a computer check of the location before visiting, which yielded an arrest warrant for § 87(2)(b) at the same address. PO Thomas’ computer checks did not yield any information regarding § 87(2)(b).

§ 87(2)(b) death. At the location, PO Thomas knocked on the door and announced that it was police, and within a minute, § 87(2)(b) opened the door fully. PO Thomas did not threaten that “it would be bad” for § 87(2)(b) if she did not open the door. PO Thomas did not remember speaking with § 87(2)(b) through a closed door. PO Thomas did not place her foot in the doorway to prevent § 87(2)(b) from closing the door. PO Thomas explained that she was looking for § 87(2)(b) who had an active I-card and that there was also an active warrant for § 87(2)(b). § 87(2)(b) stated that her father, § 87(2)(b) was deceased. PO Thomas asked for a death certificate or other proof because his records did not indicate that he was deceased, but it was not provided and PO Thomas “took her word for it.” PO Thomas asked if there were any males in the apartment, and § 87(2)(b) said yes, and invited the officers into the apartment before they asked to enter. PO Thomas observed § 87(2)(b) in the living room and identified him based on a photograph she had of him. PO Thomas asked § 87(2)(b) to provide ID, and § 87(2)(b) verbally confirmed that he was § 87(2)(b). PO Thomas handcuffed § 87(2)(b) and removed him from the location. PO Thomas confirmed that she only prepared a DD5 for this incident.

Sgt. Litra’s statement (**BR 03**) was mostly consistent with PO Thomas’, with the exception of the following. PO Thomas did not inform Sgt. Litra that § 87(2)(b) was deceased before they conducted the visit. When § 87(2)(b) answered the door, PO Thomas asked if the officers could step inside to discuss the details of the warrant. Sgt. Litra did not remember if PO Thomas threatened § 87(2)(b) that something bad would happen if she refused to open the door or allow the officers to enter. Sgt. Litra did not remember if PO Thomas placed her foot in the doorway of the apartment before § 87(2)(b) consented to the officers’ entry. PO Thomas did not explain that § 87(2)(b) had the right to deny the officers’ entry because there was an active arrest warrant. Sgt. Litra did not remember exactly what § 87(2)(b) did or said, but she was compliant and consented to the officers’ entry. § 87(2)(b) never told the officers that they could not enter the apartment. Officers do not typically document when they obtain consent to enter. Upon entering the apartment, the officers observed § 87(2)(b) sitting on the couch in the living room. PO Thomas had an I-card for § 87(2)(b) in addition to the arrest warrant for § 87(2)(b) so § 87(2)(b) was arrested.

A statement was not obtained from PO Tak, as PO Thomas was the lead officer in this case and would have been responsible for any entries and searches during this incident.

The arrest warrant (**BR 04**) for § 87(2)(b) § 87(2)(b) and listed § 87(2)(b) as his address. § 87(2)(b) for probable cause to arrest § 87(2)(b) was activated on September 20, 2020, and canceled on October 9, 2020. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

In order to effect an arrest with an arrest warrant, the police officer may, under circumstances and in the manner prescribed in this subdivision, enter any premises in which he reasonably believes the defendant to be present, NY CLS Criminal Procedure Law 120.80 (BR 08). In the case of People v. Cabral, the court concluded the People failed to demonstrate the legality of police conduct, based on the following. First, they failed to prove that the subject of the warrant lived at the location in question. The arrest warrant contained a “last known address” from six and a half months earlier, which was insufficient to prove that the subject lived there. The fact that a suspect may have lived at a particular premises at some point in time does not legally transform those premises into his

residence for a period of indefinite duration. Second, they failed to prove that the warrant officers had a reasonable belief of the subject's presence therein at the time the arrest warrant was executed. A "reasonable belief" that the suspect is present cannot be arrived at simply because that suspect may have lived at those premises six and a half months prior thereto, People v. Cabral, 147 Misc. 2d 1000 (1990) (BR 09). a. When obtaining consent prior to a search, officers are to 1. articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explain that such search will not be conducted if such person refuses to provide consent to such search; 2. secure such consent without threats or promises of any kind being made to such person. In the event body worn cameras are not provided by the department to officers engaged in a patrol function, whether in uniform or civilian clothing, officers must obtain objective proof of voluntary, knowing, and intelligent consent to search by documenting the information communicated by an officer pursuant to the guidance that the department developed pursuant to subdivision a and the response of the person who is the subject of such search in writing and by offering such person to sign a statement confirming such consent, or by documenting such information through audio, through video and audio, or by other methods, excluding fingerprinting; and (ii) develop a process for such person to request such information or record, NYC Administrative Code 14-173 (BR 10).

It is undisputed that PO Thomas, Sgt. Litra, and PO Tak entered § 87(2)(b) in Brooklyn, and arrested § 87(2)(b) therein. In People v. Cabral, it was established that an address listed for the subject six months prior was insufficient proof of the subject's residence at the location at the time of the officers' entry, and in this case, § 87(2)(b) over eight years before October 9, 2020. The fact that § 87(2)(b) was listed on the arrest warrant was insufficient to prove that § 87(2)(b) resided there on the incident date. Furthermore, PO Thomas was unable to confirm if § 87(2)(b) was living or deceased and stated in her CCRB interview that she "took § 87(2)(b) word for it" that he was deceased, which indicates that PO Thomas did not have a reasonable belief that § 87(2)(b) was present in the apartment. Given that the officers failed to meet the conditions of an entry on an arrest warrant as designated in NY CLS Criminal Procedure Law 120.80, PO Thomas was required to obtain consent to enter the premises. PO Thomas testified § 87(2)(b) invited the officers in before they requested to enter, in which case she would not have had to follow consent procedure in NYC Administrative Code 14-173.

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

Allegation B—Abuse of Authority: On February 4, 2021, Police Officer Casey Thomas entered § 87(2)(b) in Brooklyn.

Allegation C—Abuse of Authority: On February 4, 2021, Police Officer Casey Thomas searched § 87(2)(b) in Brooklyn.

§ 87(2)(b) testified (BR 11) that on February 4, 2021, at approximately 5:30 a.m., she heard

banging on the door and went to look through the peephole. § 87(2)(b) saw PO Thomas, who was knocking, PO Tak, and Sgt. Litra. § 87(2)(b) opened the door and told the officers to come inside. The officers entered the apartment, into the living room. PO Thomas stated that they were looking for § 87(2)(b) and asked if she could take a look around. § 87(2)(b) responded that she could. § 87(2)(b) did not state PO Thomas could not search the apartment. PO Thomas went down the hallway, which is L-shaped, and entered the rooms in the back. § 87(2)(b) PO Tak, and Sgt. Litra remained in the living room area of the apartment, so § 87(2)(b) was unable to see where PO Thomas looked or what she did. Based on what the rooms looked like afterward, it did not seem as though PO Thomas had gone into any drawers or compartments in the room. PO Thomas returned and stated that § 87(2)(b) was not here, so they left.

PO Thomas visited § 87(2)(b) in Brooklyn, because of a new I-card filed for § 87(2)(b) for a domestic incident. PO Thomas returned to the location because it was the location of § 87(2)(b) last arrest and where he was living at the time. PO Thomas knocked on the apartment door and announced police presence and § 87(2)(b) answered the door. PO Thomas did not mention § 87(2)(b) this time, and only told § 87(2)(b) that she was looking for § 87(2)(b). § 87(2)(b) was in a hurry getting ready for work, and before the officers asked, she immediately told them to come in and have a look around. PO Thomas did not ask § 87(2)(b) to sign anything confirming consent. § 87(2)(b) stated that § 87(2)(b) had not been to their apartment since they arrested him, and that she did not know where he was. § 87(2)(b) pointed to different rooms and told PO Thomas to check. PO Thomas and PO Tak quickly walked around the apartment, entering the different rooms, while § 87(2)(b) and Sgt. Litra remained in the living room. § 87(2)(b) was not there.

Sgt. Litra's statement was consistent with PO Thomas', with the exception of the following details. PO Thomas asked to enter the apartment to make sure § 87(2)(b) was not there and § 87(2)(b) consented. Sgt. Litra did not remember if PO Thomas stated that § 87(2)(b) could refuse their entry. PO Thomas asked if she could walk through the apartment and § 87(2)(b) consented.

§ 87(2)(b) was active from January 31, 2021, to February 28, 2021, which was for probable cause to arrest § 87(2)(b) § 87(2)(b) DD5 (BR 13) for this I-card dated February 4, 2021, notes that PO Thomas visited § 87(2)(b) to attempt to apprehend § 87(2)(b). PO Thomas documented that she was invited into the apartment to search for the subject, and that he was not there.

a. When obtaining consent prior to a search, officers are to 1. articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explain that such search will not be conducted if such person refuses to provide consent to such search; 2. secure such consent without threats or promises of any kind being made to such person. In the event body worn cameras are not provided by the department to officers engaged in a patrol function, whether in uniform or civilian clothing, officers must obtain objective proof of voluntary, knowing, and intelligent consent to search by documenting the information communicated by an officer pursuant to the guidance that the department developed pursuant to subdivision a and the response of the person who is the subject of such search in writing and by offering such person to sign a statement confirming such consent, or by documenting such information through audio, through video and audio, or by other methods, excluding fingerprinting; and (ii) develop a process for such person to request such information or record, NYC Administrative Code 14-173 (BR 10).

§ 87(2)(g)

§ 87(2)(g)

Although PO Thomas testified that § 87(2)(b) invited them in and then told the officers to look around, § 87(2)(b)

However, PO Thomas did not obtain objective proof of the consent, as delineated in NYC Administrative Code 14-173(a)(1). Furthermore, PO Thomas did not prepare a Consent to Search Form, as required by NYC Administrative Code 14-173(b)(2). Although PO Thomas was not issued a BWC during the time of the incident, under Administrative Code 14-173 (h)(1), she would be required to document the consent through paperwork signed by § 87(2)(b) or other video or audio recordings.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 14**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 15**).
- PO Thomas has been a member-of-service for six years and has been a subject in four CCRB complaints and seven allegations, none of which were substantiated. CCRB Complaint #202102170 is pending investigation. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On January 28, 2022, a FOIL request for Notice of Claim was submitted to the NYC Comptroller's Office (**BR 16**). The results will be attached to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 6

Investigator: Lily Kim Investigator Lily Kim 1/31/2022
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 1/31/2022
Signature Print Title & Name Date

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